SBCivil Writ Petition No.6529/2005

Shri Digambar Jain Panchayat Mahaveer Temple Trust & Ors. v. Civil Judge (JD),Bhilwara and others.

Date of Order :: 25th January, 2006

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. Usman Ghani, for the petitioners.

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In a suit for eviction and recovery of arrears, an application was filed by the respondents applicants for being impleaded as defendants. The applicants contended that being trustees they are receiving the rent from the defendants, as such the plaintiffs were having no right to file the suit against the tenant for eviction of premises and recovery of rent.

By the order dated 29.4.2004 learned Civil Judge (JD), Bhilwara accepted the application and ordered to implead the applicant respondents No.4 to 11 as defendants. Being aggrieved by the same instant writ petition is preferred by the petitioner plaintiffs.

It is contended by counsel for the petitioners that the court below erred while accepting

the application preferred by the applicant respondents No.4 to 11 under Order 1 Rules 6 and 10 read with Section 151 CPC for the reason that the applicants are having no right to be impleaded as defendants to the suit in question. It is urged by counsel for the petitioners that the plaintiff petitioners No.2 to 10 are the trustees of petitioner No.1 Shri Digambar Jain Panchayat Mahaveer Temple Trust and, therefore, nobody else than the trustees could have filed the present suit for eviction of tenant and recovery of rent. According to counsel for the petitioners the applicant respondents are strangers in the suit proceedings.

Heard counsel for the petitioners.

The trial court while accepting the application preferred under Order 1 Rules 6 and 10 read with Section 151 CPC considered the contention raised by the applicant respondents that they are receiving rent of premises concerned and they have been declared as trustees by the Department of Devsthan. They are also managing the shops pertaining to which the suit in question was filed. The trial court on basis of available facts found the applicant respondents a party necessary to the proceedings. The court below, therefore, has not committed any error which may warrant interference of this Court under Article 227 of the Constitution of India.

The writ petition, therefore, is having no force and the same is hereby dismissed.

( GOVIND MATHUR ),J.

kkm/ps.